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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

May 8, 2017

Captain Christopher Bergner
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Arturo Lopez
J.S.I.D. File #15-0335
L.A.S.D. File #015-11653-1192-013

Dear Captain Bergner:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 3, 2015, fatal shooting of Arturo Lopez by members of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Daniel Welle, #[redacted]
Deputy Jeremi Edwards, #[redacted]



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MEMORANDUM

TO: CAPTAIN CHRISTOPHER BERGNER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Arturo Lopez
J.S.I.D. File #15-0335
LASD File #015-11653-1192-013

DATE: May 8, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 3, 2015, fatal shooting of Arturo Lopez by Los Angeles County Sheriff's Department (LASD) Deputies Daniel Welle and Jeremi Edwards. It is our conclusion that Deputies Welle and Edwards acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of this shooting on July 4, 2015, at approximately 12:38 a.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene.

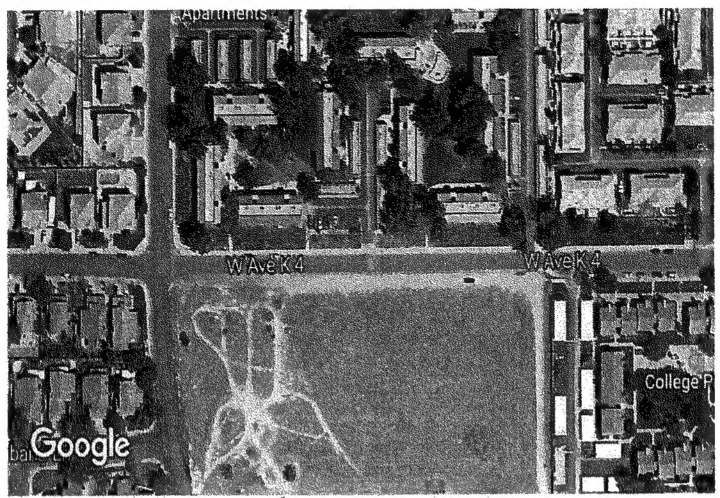
The following analysis is based on reports submitted to our office by LASD Sergeants Richard Biddle and Howard Cooper. The reports include photographs, videos, audio-recorded interviews of witnesses, and radio transmissions. The voluntary statements of Deputies Welle and Edwards were considered in this analysis.

FACTUAL ANALYSIS

On July 3, 2015, at approximately 11:30 p.m., LASD Deputies Welle and Edwards were assigned to Operation Safe Streets, a gang violence suppression unit, patrolling an area near West Avenue K-4 and 35th Street West, in the City of Lancaster.[1] Welle was driving and Edwards was the passenger in their patrol vehicle. They were travelling eastbound on West

[1] Deputies assigned to this unit do not respond to calls but instead patrol areas that are known for gang activity. Welle and Edwards were near the corner of 32nd Street West and West Avenue K-4 looking for the vehicle of a suspect in a gang related shooting in the City of Palmdale a week prior to July 3, 2015. The area they were patrolling was considered a transient gang area because of the large number of gang members from different gangs in the surrounding apartment complexes who moved residences frequently. The deputies drove an unmarked Crown Victoria patrol car, which only had spotlights mounted on the driver's and passenger's front side door frames. Welle and Edwards wore LASD Class B uniforms, which were tan and green in color with a cloth LASD star badge on the left chest, LASD badge patches on each shoulder, and a Sam Browne gun belt. Edwards also wore a green baseball cap with a gold LASD star patch on the front.

Avenue K-4, in a well-known gang neighborhood, when they observed Arturo Lopez and an unidentified man walking westbound on West Avenue K-4.[2] Lopez and the man initially walked from the south curb into the middle of the street in the direction of the apartment complex. As Welle and Edwards drove eastbound, the men continued walking in the middle of the street. Welle drove the patrol vehicle toward Lopez and the man to contact them for walking in the roadway, a violation of Vehicle Code section 21956(a). As Welle and Edwards approached, the men changed direction and began walking toward the large dirt lot. Lopez, who wore a hooded sweatshirt with a front pocket, and the unidentified man initially walked with their hands visible.



West Avenue K-4 and 32nd Street West, Lancaster, California[3]

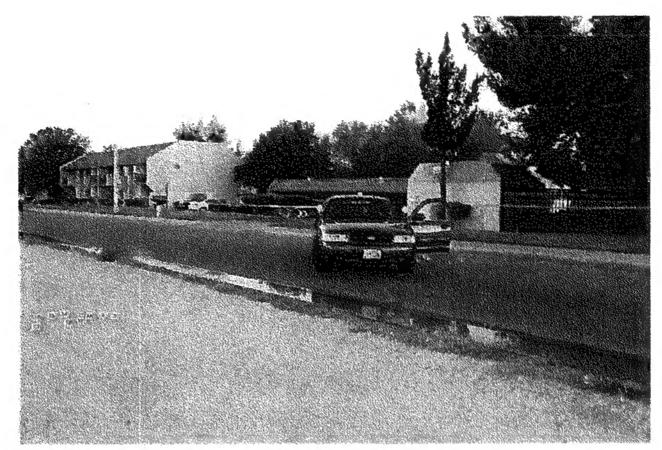
Welle drove the patrol vehicle slowly, and when they came within a short distance of Lopez and the man, Edwards exited the passenger door of the vehicle and told the men to "grab the hood." Lopez and the unidentified man, who were facing Edwards with their hands inside the pockets of their sweatshirts, initially stopped but ignored Edwards' command. The men continued walking away from the deputies into the dirt lot. Edwards told Lopez and the unidentified man to place their hands on the hood of the patrol car several times. Lopez and the man ignored Edwards' commands. Fearful that the men were armed with weapons, Edwards drew his service weapon and told them to remove their hands from their pockets. Lopez and the man did not comply, continued walking and appeared to be separating from each other. The unidentified man walked closer to Edwards and blocked his view of Lopez. Edwards told the men to remove their hands from their pockets, and eventually ordered them to "Get on the ground!" They refused to comply with these commands as well. Meanwhile, Welle had stopped the vehicle, exited and drew his service weapon. Lopez turned slowly to his left and said, "Fuck this." He pulled out an "Uzi" style assault weapon from the front pocket of his sweatshirt, pointed it at Edwards and fired. Fearing they would be shot and killed, Edwards and Welle fired several rounds at him. Lopez fell to the ground, and the deputies were unable to see whether Lopez was rearming

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[2] West Avenue K-4 is a residential street that runs in an east/west direction. The north side of West Avenue K-4 consists of a large apartment complex with several two story apartment buildings throughout the property. Welle and Edwards were aware that numerous gang members resided in the apartment buildings. The south side of West Avenue K-4 consists of a large vacant dirt lot.

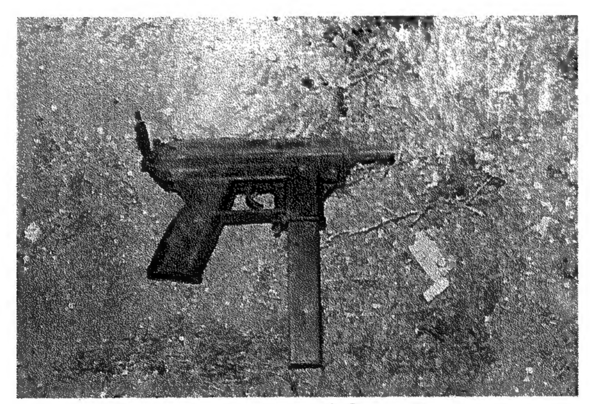
[3] Image obtained from Google Maps.

himself with the weapon. Still in fear of being shot and killed, Welle fired additional rounds at Lopez.[4] The unidentified man ran towards Lopez and appeared as if he was going to grab the gun from Lopez, but then fled across the dirt lot. Welle chased after him, but was unable to apprehend him after he ran through an opening in a wall bordering the lot.



Edwards and Welle's Patrol Vehicle

Lopez, who had fallen on top of his firearm, was handcuffed and rolled over to his side.[5] An Intratec 9 millimeter Luger assault weapon was found tied to his shoulder with a USB cable. The weapon was fully loaded to capacity with a thirty round magazine, consisting of 9 millimeter ammunition and one expended 9 mm cartridge case stove-piped within the chamber of the weapon.[6]



Firearm recovered from Lopez

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[4] A total of sixteen expended Win 9 millimeter Luger cartridge cases were found near the patrol vehicle. One was found on top of the roof of the patrol vehicle; two were found lying on the driver's seat; four were on the street north of the open driver's side door of the vehicle; and nine were found in the dirt lot, south of the south curb line and parallel to the angled front bumper of the patrol vehicle. As will be discussed further, all sixteen rounds were found to have been fired by Edwards and Welle. The patrol vehicle was stopped in a southeast direction, with the front of the car at an angle to the curb of the dirt lot.

[5] Lopez' head was pointed in a southeast direction and his legs in a northwest direction.

[6] The assault weapon was purchased and registered to Lopez on September 28, 1996. Stove-piping is the failure to eject where the fired case is caught in the ejection port by the forward motion of the slide or bolt. The firearm was test fired and was determined to be functional. The expended cartridge casing was identified as having been fired from the Intratec pistol. The assault weapon, magazine, cartridge casing and cartridges were processed for latent prints; however none were developed. Lopez' DNA was found on the trigger, trigger guard and grip. An analysis of gunshot residue samples collected from Lopez' hands did not reveal any characteristic particles of gunshot residue. Characteristic particles of gunshot primer residue were found on Lopez' sweatshirt, white t-shirt and back support brace.

Los Angeles County Fire Department paramedics arrived, rendered medical aid and pronounced Lopez dead at 11:44 p.m..

On July 6, 2015, Deputy Medical Examiner Odey Ukpo performed a postmortem examination of his remains and determined that he suffered two gunshot wounds. The wounds were located in his head and right arm. The gunshot wound to the head, which was determined to be fatal, was located on the right side of Lopez' scalp, travelled from back to front, right to left and upward. The wound to the arm was located on the side of the right tricep, travelled from back to front, right to left and upward.[7] Lopez' toxicological examination showed a level of amphetamine and methamphetamine in the blood specimens. The levels were in the range where toxic effects can be seen.

Statement of Deputy Jeremi Edwards

On July 3, 2015, Edwards was assigned to the Operation Safe Streets gang-suppression unit and was the passenger in an unmarked patrol vehicle driven by Welle. The deputies were patrolling the area of West Avenue K-4 and 35th Street East, looking for the suspect of a gang related shooting. Welle and Edwards were travelling eastbound on West Avenue K-4 and observed Lopez and an unidentified man walking in the middle of the street in a westbound direction for approximately twenty to thirty yards.[8] Welle veered the patrol unit towards the north side of the street to make contact with Lopez and the man regarding a Vehicle Code violation of walking in the middle of the street. As the deputies approached, the men looked in the direction of the deputies, changed directions and started walking southbound toward the open field.[9] Edwards was initially able to observe the hands of Lopez and the unidentified man, who were both wearing sweatshirts, as they walked. As Welle drove the car at approximately one mile per hour in a southeast direction, Edwards exited the passenger door as the car was still moving and moved towards the front bumper of the patrol car. Lopez and the man, who had their hands inside the front pockets of their sweatshirts, were approximately ten to fifteen yards away and were facing Edwards. Edwards immediately gave them commands to place their hands on the hood of the patrol unit.[10] Edwards told them to "grab the hood" several times. Lopez and the man stopped, then continued walking around, failing to comply with Edwards' commands. Edwards also observed that Lopez had an intense, angry look on his face. Edwards was aware that numerous gang members lived in the area, and believed Lopez was a gang member based upon his clothing and the way he carried himself as he walked down the street, which he described as a "prison-type walk."

Lopez and the unidentified man walked in a "swirling" or "swiveling" type of motion, moving away from Edwards and continued to keep their hands in their sweatshirt pockets. Initially, Edwards believed Lopez and the other man were trying to decide if they should run or attack the deputies because they had failed to comply with his previous commands. Edwards became

[7] The locations of the gunshot wounds are consistent with the deputies' statements, which are explained below, that Lopez turned his body several times during the officer-involved shooting, and that he was struck with rounds after falling to the ground.
[8] Edwards believed Lopez and the man were walking to the apartment complex on the north side of the street, however the men continued to walk in the center of the street and never reached the north side of the street.
[9] As the deputies approached in the vehicle, the passenger window was rolled down and the badge patch on Edwards' right shoulder was exposed in the direction of Lopez and the unidentified male.
[10] Lopez and the unidentified man were next to each other but the unidentified man was closer to Edwards' position.

increasingly afraid that Lopez and the man had decided to engage the deputies because they had not fled or complied.[11] Fearful that Lopez and the man may have been armed with a gun because they kept their hands in their sweatshirt pockets, Edwards drew his service weapon, pointed it at Lopez and the other man, and said, "Let me see your hands! Let me see your hands!" Lopez and the man did not comply with the commands. The unidentified man then advanced towards Edwards' direction, but placed himself between Lopez and Edwards. The unidentified man blocked Edwards' view of Lopez, and Edwards could not see what Lopez was doing with his hands inside his sweatshirt pocket.[12] Edwards ordered Lopez and the other man to remove their hands from their pockets and again, they did not comply. Edwards issued commands for them to "Get on the ground!" They did not comply. Edwards told them, "Get the fuck on the ground!" They refused to comply. Lopez and the other man began to move slowly backwards and sideways to the open field, south of the curb line. Edwards walked southbound away from his patrol unit in order to maintain visual contact of Lopez and the unidentified man. The unidentified man moved closer to Edwards, who then had a clear view of Lopez. Lopez turned to his left with his hands still inside his sweatshirt pocket. As Lopez turned, he removed what appeared to be an Uzi, pointed it directly at Edwards and said, "Fuck this." Believing Lopez was about to shoot him, Edwards immediately fired six to seven rounds from approximately 10 to 15 yards away.[13]

Edwards could hear Welle behind him, to the left, firing at Lopez also. Lopez turned to his right and fell down onto his face. Edwards could not see Lopez' left arm or the weapon. Edwards' attention was then drawn to the unidentified man who ran southeast into the field. The unidentified man ran a short distance, turned, and returned to within ten feet of where Lopez was lying. The unidentified man crouched down, and Edwards and Welle pointed their service weapons at him. The unidentified man then turned around and ran southeast through the empty field. Edwards moved closer to Lopez and held him at gunpoint, while Welle ran after the unidentified man into the empty lot. The unidentified male reached an opening in a wall at the south end of the field and disappeared from view. Welle stopped following the unidentified man and returned to Edwards and Lopez. At 11:30 p.m., Edwards broadcast the shooting via radio and provided a description of the unidentified man and the direction he fled.

As Lopez was lying face down, Edwards was unable to see Lopez' left hand and arm, and Edwards believed he may have still been holding the gun. Edwards continued to hold Lopez at gunpoint until Lopez was turned over. Once Lopez was turned over, Edwards observed the gun but initially was unable to remove it from Lopez because it was attached to his body with a cord. Edwards cut the cord and removed the gun from Lopez.

[11] During prior incidents, Edwards had seen individuals either comply with the commands or take off running and discard the handguns.

[12] Edwards believed the unidentified man was purposely attempting to distract him and block his view. In previous contacts with gang members, Edwards had seen gang members use this tactic to flee, or conceal or discard contraband.

[13] Edwards was unaware of whether Lopez had actually fired a round at him. A post-incident examination revealed that Edwards' departmentally issued 9 millimeter Smith and Wesson firearm was loaded with one round in the chamber and eight rounds in the magazine. Edwards, although not completely certain, believed his firearm was normally loaded with one round in the chamber and seventeen rounds in the magazine; this is consistent with Edwards having fired nine rounds during the officer-involved shooting. The approximate distance from where Edwards was standing at the time of the shooting to where Lopez fell to the ground was 53 feet, 7 inches.

Statement of Deputy Daniel Welle

On July 3, 2015, Welle was assigned to the Operation Safe Streets gang-suppression unit and was the driver in an unmarked patrol unit with his partner Deputy Edwards. Welle and Edwards were looking in the area of 32nd Street and West Avenue K-4 for a shooting suspect's vehicle.[14] Welle drove eastbound on West Avenue K-4 and saw Lopez and the unidentified man walking on the south side of the street. The two men weaved back and forth from the street to the dirt shoulder. Lopez kept his hands inside the front pocket of his sweatshirt as he walked.[15] Welle believed Lopez may have been under the influence and possibly intoxicated, and that both men were dressed like gang members.[16] Welle was also aware that numerous gang members resided in the surrounding apartment complexes. Welle focused his attention on Lopez because it had been over one-hundred degrees that day, the weather was still extremely warm and Lopez was wearing a hooded sweatshirt.

As Welle drove closer, Lopez and the unidentified man began walking across the street. When the men walked approximately three-quarters across the street, they began walking in the middle of the street. Welle drove the patrol car towards the north shoulder, and believed Lopez and the unidentified man recognized that the vehicle was a police vehicle because they changed the direction in which they were walking. Lopez and the man walked to the south side of the street and Edwards exited the patrol car as it was still slowly moving. Welle stopped the car, began to exit and could hear Edwards issuing orders. Welle was unsure of the exact orders, but believed Edwards told Lopez and the man to walk to the hood of the car, to show their hands and to get on the ground. Lopez and the man ignored Edwards' orders. Welle saw that Lopez' hands were still inside his pockets and observed some type of manipulation. Welle was unsure if Lopez was chambering a round in a handgun, but he saw some type of movement and believed he was armed. Lopez removed his right hand from his pocket but his left hand remained inside.

Welle exited his vehicle and drew his service weapon. Welle saw that Edwards had also drawn his service weapon. Lopez and the unidentified man were approximately five to six feet into the dirt field as Edwards sidestepped from the patrol car. Welle believed Lopez and the other man's behavior was definitely indicative of armed individuals. Lopez was facing away from Welle and walking into the dirt field. Lopez turned, his left arm came out and he said, "Fuck this."[17] Welle saw that Lopez held what appeared to be a handgun and then saw muzzle flash emit from it.[18] Fearing that he and Edwards would be shot and killed, Welle immediately fired his service weapon three to four times at Lopez. Turning and stepping into the dirt field, Lopez appeared to be manipulating the gun, and Welle fired additional rounds at him. Lopez fell to the ground and

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[14] According to Welle, the apartment complex on the corner of 32nd Street and West Avenue K-4 was a well-known gang hangout.

[15] Welle told the detectives that Lopez' hands may have been in his pants pockets but he believed they were in his sweatshirt pockets, the unidentified man did not have his hands in his pockets, and that Lopez "stutter-stepped" as he walked.

[16] Lopez wore a dark color hooded sweatshirt with a front pocket or two side pockets and the unidentified male wore baggy clothing consisting of a dark color sweatshirt and long shorts or pants.

[17] Based on his experience as a gang deputy, when Lopez said, "Fuck this", Welle believed that Lopez had decided to engage the deputies in a shooting rather than abandoning his weapon and/or running away. Welle also believed that the unidentified man was intentionally trying to block Edwards' view of Lopez, which Welle had observed gang members do during previous incidents. Welle heard Edwards say something about an Uzi, but he was not sure if Edwards made the statement during the incident or immediately afterwards.

[18] Edwards said the muzzle flash looked more like sparklers than a solid muzzle flash.

continued to move slightly. Welle was unable to see if Lopez was still manipulating the gun to try to shoot at the deputies because he had fallen on the weapon. Fearing that Lopez remained a threat and that his life was in danger, Welle fired two to three more rounds.[19] The unidentified man walked over to Lopez and reached down as if he was trying to grab Lopez' firearm. Welle pointed his service weapon at the unidentified man, who then ran southeast through the field. Welle gave chase as the man ran towards a wall and through an opening at the south end of the dirt field. Welle lost sight of the man and returned to Edwards. Lopez appeared to be gravely injured and Welle radioed for an ambulance. Welle and Edwards covered Lopez with their service weapons until Welle handcuffed him. Welle turned Lopez' body over, revealing the gun. Edwards attempted to remove the gun from Lopez but it appeared to be tethered to him by a USB cord. Edwards cut the cord and removed the weapon from Lopez.

Statements of [redacted]

On July 3, 2015 at 11:31 p.m., [redacted] called the Lancaster Sheriff's Station, identified himself as [redacted] and reported that he saw his [redacted] at [redacted] 30th Street West Avenue K shoot two 9 millimeter handguns into the air. The call was recorded.

On July 4, 2015 at 5:51 a.m., Watch Deputy Marolla of the Lancaster Sheriff's Station called and spoke with [redacted][20] Marolla confirmed the address [redacted] had previously given in the July 3, 2015 call was the location where the [redacted] had been shooting guns into the air. [redacted] added that he had witnessed an officer-involved shooting on July 3, 2015. [redacted] said the deputies had given Lopez a command to raise his hands and to freeze, and he complied. The deputies then shot Lopez. [redacted] witnessed the officer-involved shooting immediately after placing the original call regarding the [redacted]. [redacted] clarified that his name was actually [redacted]

On July 4, while Sergeants Biddle and Cooper were at the scene of the officer-involved shooting, [redacted] approached them and was interviewed. [redacted] said he was walking westbound along the north sidewalk of West Avenue K-4 from 30th Street West, nearing the apartment complex located at [redacted] West Avenue K-4. As he reached the apartment complex, he saw Lopez running southbound from the apartment complex on the north side of the street, across West Avenue K-4 and into the dirt lot. [redacted] heard the sirens from multiple patrol cars responding to the area, and believed the deputies had been in pursuit of Lopez. [redacted] only saw one unmarked patrol car driving eastbound on West Avenue K-4, following Lopez. The unmarked car contained one deputy, the driver. The patrol car stopped and the deputy exited the driver's seat with his weapon drawn.[21] The deputy pointed his service weapon at Lopez and ordered him to freeze. Lopez, who was facing away from the deputy, stopped running and put his hands straight up in the air. [redacted] did not see anything in Lopez' hands. The deputy opened fire and shot at Lopez. After the shooting, the deputy called for backup. As additional deputies were arriving, the deputy approached Lopez and handcuffed him. [redacted]

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[19] A post-incident examination revealed that Welle's departmentally issued 9 millimeter Smith and Wesson firearm was loaded with one round in the chamber and ten rounds in the magazine. Sergeant Biddle examined Welle's firearm and determined that Welle fired seven rounds. The approximate distance from where Welle was standing at the time of the shooting to where Lopez fell to the ground was 72 feet, 11 inches.

[20] Marolla listened to the recording of the July 3, 2015 call, called the number provided in the call, and determined that the voice was the same in both conversations.

[21] [redacted] said the deputy wore an army green "flak jacket" vest over his uniform.

approached the deputies at the location and yelled, "Why did you shoot him? He was not armed!" One of the deputies replied that Lopez did have a gun but [redacted] disagreed.

On July 20, 2015, [redacted] called Lancaster Sheriff's Station and said he wanted to provide additional information. [redacted] said that he had recently had a session with his therapist, and that during the session he recalled that three fireworks exploded in the air just as the deputy ordered Lopez to freeze. [redacted] assumed that the deputy heard the fireworks and believed that Lopez was shooting at him, which resulted in the officer-involved shooting.[22]

Statement of [redacted]

On July 3, 2015, [redacted] was at her residence at [redacted] West Avenue K-4 in the City of Lancaster when the sound of police sirens coming from south of her apartment building caught her attention.[23] [redacted] and other residents went to the southwest side of her apartment building, and she stood approximately fifty feet from the location of the incident.[24] Police vehicles, including five black and white patrol units, two unmarked units and an unmarked sheriff's truck, responded from every direction, including the southeast corner of the dirt lot adjacent to an apartment building. She observed Lopez, who was alone, running westbound along the north side of the dirt lot. [redacted] saw deputies exit a marked patrol car and yell, "Freeze! Freeze!" at Lopez. The deputies also yelled for Lopez to drop his weapon, which surprised [redacted] because she did not see Lopez in possession of a weapon. Lopez stopped running and raised his hands in the air above his head with a "deer in the headlights" look on his face. [redacted] said Lopez was not facing the deputies when he stopped. She then heard multiple gunshots coming from deputies who were positioned outside of marked patrol vehicles just north of the field.[25]

After the shooting, [redacted] asked a deputy why he shot Lopez and the deputy replied, "He shot at me first." [redacted] told the deputy that Lopez had not fired a weapon first. [redacted] said she later saw that the deputies had recovered a weapon that she described as "big shit" like a "Tec-9" from Lopez. She also told the deputies that she had recorded the incident but refused to allow them to view the video because she was afraid the deputies would destroy the evidence.[26]

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he

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[22] On July 21, 2015, [redacted] told Biddle essentially the same statement regarding the fireworks resulting in the officer-involved shooting.

[23] [redacted] apartment complex was located northeast of the location of the incident.

[24] The distance between [redacted] location and the location of the incident is approximately [redacted] from where Lopez' body was located.

[25] [redacted] said she was certain the deputies who were involved in the shooting were from marked patrol cars.

[26] [redacted] told the investigators that the incident was recorded on her brother's phone and that she would provide a copy to them. Investigators went to her residence multiple times to follow up but could not locate her. Business cards were left on her door and inquiries were made of other residents into her whereabouts. The other residents did not know [redacted] and, to date she has not provided a copy of any video. [redacted] also said that residents of [redacted] West Avenue K-4, Apartment [redacted] had recorded the entire incident and that she had viewed the video. The investigators attempted to locate the residents of unit [redacted] An eviction notice was observed at the unit, and to date no residents of the unit have contacted investigators.

actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

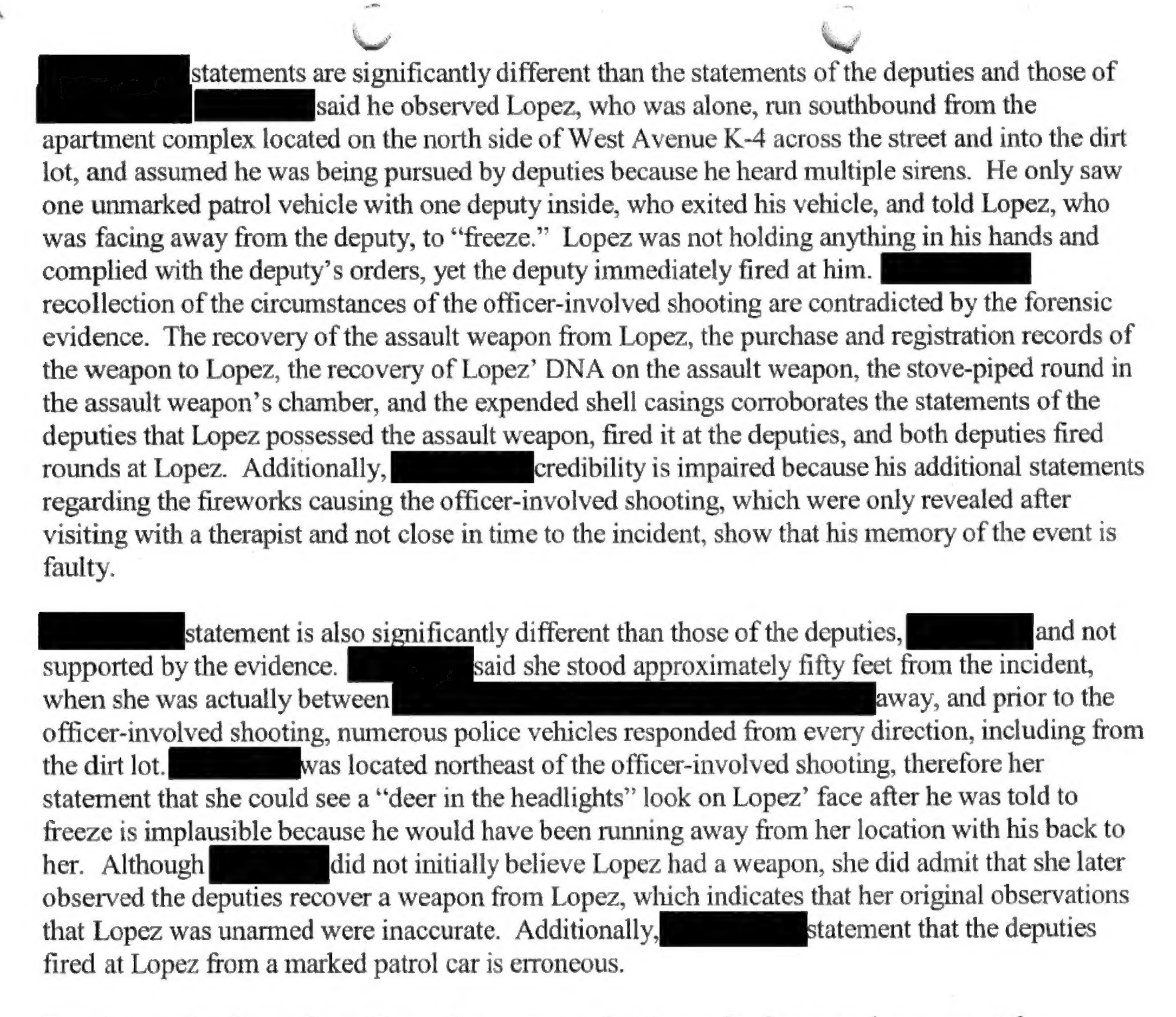
"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight....The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

CONCLUSION

The evidence examined in this investigation shows that Deputies Edwards and Welle were looking for a vehicle that belonged to a suspect in a gang related shooting near an apartment complex where known gang members resided and frequented. As Welle and Edwards drove eastbound on West Avenue K-4, they noticed Lopez and an unidentified man walking in the middle of the street. Lopez and the man continued walking in the street, and the deputies intended to stop them for walking in the roadway in violation of Vehicle Code section 21956(a). However, as Welle and Edwards approached, Lopez and the unidentified man changed direction and began walking toward the large dirt lot.

Edwards exited the vehicle and told Lopez and the unidentified man to "grab the hood" of the patrol car, but his commands were ignored. Lopez and the man, who had their hands inside the pockets of their sweatshirts, ignored Edwards' repeated commands to place their hands on the hood of the patrol car. Fearful that Lopez and the unidentified man were gang members armed with weapons, Edwards drew his service weapon and told them to remove their hands from their pockets. Lopez and the man refused to comply, and began walking in a manner that Edwards had seen in previous encounters with gang members. Edwards ordered Lopez and the man to get on the ground, but these commands were also ignored. Edwards repeated his commands for Lopez and the unidentified man to get on the ground as Welle exited the patrol car and withdrew his service weapon. Lopez turned toward his left, said, "Fuck this!", removed an assault weapon, pointed it directly at Edwards and fired one round. In reasonable fear of death or great bodily injury, Edwards and Welle fired their service weapons at Lopez. Lopez fell to the ground and continued to move slightly. Aware that Lopez was still armed, and fearful that he was still attempting to manipulate the assault weapon and shoot at the deputies, Welle fired at Lopez, ending the threat.



[redacted] statements are significantly different than the statements of the deputies and those of [redacted] said he observed Lopez, who was alone, run southbound from the apartment complex located on the north side of West Avenue K-4 across the street and into the dirt lot, and assumed he was being pursued by deputies because he heard multiple sirens. He only saw one unmarked patrol vehicle with one deputy inside, who exited his vehicle, and told Lopez, who was facing away from the deputy, to "freeze." Lopez was not holding anything in his hands and complied with the deputy's orders, yet the deputy immediately fired at him. [redacted] recollection of the circumstances of the officer-involved shooting are contradicted by the forensic evidence. The recovery of the assault weapon from Lopez, the purchase and registration records of the weapon to Lopez, the recovery of Lopez' DNA on the assault weapon, the stove-piped round in the assault weapon's chamber, and the expended shell casings corroborates the statements of the deputies that Lopez possessed the assault weapon, fired it at the deputies, and both deputies fired rounds at Lopez. Additionally, [redacted] credibility is impaired because his additional statements regarding the fireworks causing the officer-involved shooting, which were only revealed after visiting with a therapist and not close in time to the incident, show that his memory of the event is faulty.

[redacted] statement is also significantly different than those of the deputies, [redacted] and not supported by the evidence. [redacted] said she stood approximately fifty feet from the incident, when she was actually between [redacted] away, and prior to the officer-involved shooting, numerous police vehicles responded from every direction, including from the dirt lot. [redacted] was located northeast of the officer-involved shooting, therefore her statement that she could see a "deer in the headlights" look on Lopez' face after he was told to freeze is implausible because he would have been running away from her location with his back to her. Although [redacted] did not initially believe Lopez had a weapon, she did admit that she later observed the deputies recover a weapon from Lopez, which indicates that her original observations that Lopez was unarmed were inaccurate. Additionally, [redacted] statement that the deputies fired at Lopez from a marked patrol car is erroneous.

Based upon the above, the evidence demonstrates that Lopez fired an assault weapon at the deputies, posing an immediate threat to the safety of both deputies. Edwards and Welle responded, in fear for their lives, by using deadly force to end the threat.

Given the rapidly evolving, life threatening situation that confronted Deputies Jermei Edwards and Daniel Welle, we conclude that they acted lawfully in self-defense and defense of others. We are therefore closing our file and will take no further action in this matter.